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Statement / Court of Appeal decision on aboriginal forestry / Minister Green (03/08/29)

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FREDERICTON (CNB) -- The following statement was issued today by Justice Minister, Attorney General and Minister responsible for Aboriginal Affairs, Brad Green, in light of the recent decision of the New Brunswick Court of Appeal in the case of *R. v. Joshua Bernard*:

"The New Brunswick Court of Appeal has made a decision today in the case of *R. v. Joshua Bernard* on the communal right of aboriginals to harvest timber from Crown land. The court has stayed its decision for a period of one year.

"Because of the fundamental issues raised in this case, the Attorney General will take the time necessary to review and analyse the decision in a thorough and careful manner, to consider its possible impact. A decision on whether or not to appeal will be made at the earliest possible time.

"We have had enough experience in this province with court decisions dealing with the issues of aboriginal and treaty rights to understand the need for clear direction and decisive action.

"Today's decision confirmed that the Crown continues to have the duty to regulate the harvest of natural resources on Crown land.

"While the majority of the Court of Appeal recognized a treaty right by aboriginal communities to harvest and sell timber from Crown land, the trading right has an inherent limitation as it is described as a right of trade for a moderate livelihood, but not accumulation of wealth. Further limitations may be imposed through regulations, after good faith consultations with appropriate representatives of the aboriginal people.

"The Province already has timber harvesting, sale and royalty agreements with all 15 First Nation communities. We already have an arrangement that gives all communities collectively, access to an annual total of 250,000 cubic metres of wood fibre, the jobs associated with this harvest and all of the royalties that accrue from the sale, some 3.3 million dollars in the last year alone.

"This arrangement has been built on the basis of good public policy, out of a desire to assist aboriginal people to become part of the forest industry and the mainstream economy.

"I expect leaders in industry and in First Nation communities to cooperate in the weeks and months ahead as we collectively review our current practices and arrangements. I expect the federal government to join us in encouraging and supporting this type of co-operation.

"We feel the stay on the decision imposed by the Court is a prudent one. The stay suspends the recognition of the treaty right to harvest and sell logs for a period of one year. In that time, the court has placed an onus on all parties to work out through discussion and consultation the best and most reasonable means of permitting aboriginal people to access

the timber resource which the court has granted in its decision.

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"As the court said in their decision, all the parties to this appeal, government, aboriginal and interveners, requested this sort of stay so as to give sufficient time to all parties to consider the decision and come to an arrangement without the confrontation which unfortunately accompanied the Marshall decision on aboriginal access to the commercial fishery.

"In my role as the Minister responsible for Aboriginal Affairs, I would like to say that the challenge that we are facing as a government and as a society is to reconcile the rights and the desires of aboriginal people with the rights and desires of members of the broader society.

"Let me underscore to all present here today: This is a priority for us. Minister Ashfield and I will be making statements and providing briefings to the media as this process unfolds and as progress is made.

"At this time, I want to call upon all parties involved in this decision to act responsibly and with restraint as we work to bring about a solution that is in the interests of all New Brunswickers."

03/08/29

MEDIA CONTACT : Craig Chouinard, communications, Aboriginal Affairs, 506-444-2519; Brent Roy, communications, Natural Resources, 506-453-2614.

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